

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

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|-------------------------------|---|--------------------------|
| BOBBY ALLAN GREEN, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case Number CIV-13-601-C |
| |) | |
| JEFF SMITH; DAVID PRATER; and |) | |
| MEGAN KOENIG, |) | |
| |) | |
| Defendants. |) | |

ORDER

This 42 U.S.C. § 1983 action was filed by Plaintiff proceeding as a pro se prisoner. The case was referred to United States Magistrate Judge Suzanne Mitchell consistent with the provisions of 28 U.S.C. § 636(b)(1)(B). On January 26, 2015, Judge Mitchell entered a Report and Recommendation (“R&R”) recommending dismissal of the case for failure to prosecute. In making her recommendation, Judge Mitchell noted that Plaintiff was released from custody on December 26, 2014, and since that time had not provided the Court with a new address, updated his financial status, or otherwise taken any action to prosecute the case.

Defendant Koenig provided a Notice to the Court outlining the contact her counsel had with Plaintiff. In addition, Plaintiff has filed an Objection to the R&R. In that Objection, Plaintiff states that he has now retained counsel and is ready to move the case forward. Plaintiff expresses his regret with the circumstances leading to the entry of the R&R but notes it took him some time to find a place to live.

After consideration of the R&R and the facts outlined by Plaintiff in his Objection, including the fact that Plaintiff has now obtained counsel who has entered an appearance, the Court find dismissal for failure to prosecute is not warranted.

As set forth more fully herein, the Court declines to adopt the Report and Recommendation (Dkt. No. 62). This matter is referred to Judge Mitchell for further proceedings in accordance with the original Order of referral.

IT IS SO ORDERED this 19th day of February, 2015.



ROBIN J. CAUTHRON
United States District Judge